REMARKS

Applicant is in receipt of the Office Action mailed August 24, 2004. Claims 1 – 4, 6 – 20, 22 – 34, and 36 – 44 were pending. Applicant has amended claims 1, 13, 15, 29, 31 and 43. Accordingly, claims 1 – 4, 6 – 20, 22 – 34, and 36 – 44 remain pending in the application.

The Examiner indicated claims 7, 8, 23, 24, 37 and 38 have been allowed.

Claims 13, 29, and 43 were objected to by the Examiner as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant has accordingly rewritten claims 13, 29, and 43 into independent form.

Claims 1 – 4, 6, 15 – 20, 22, 31 – 34, and 36 were rejected under 35 U.S.C. §102(e) as being anticipated by Sasamoto et al. (USPN 6,442,711, hereinafter "Sasamoto"). Claims 9 – 12, 14, 25 – 28, 30, 39 – 42, and 44 were rejected under 35 U.S.C. §103(a) as being unpatenatable over Sasamoto in view of Matthews (USPN 4,532,628).

Sasamoto teaches "means for storage a history of self-recovered errors of each one of the plurality of data storage devices on the basis of the history of errors, means for judging a necessity to execute a preventative maintenance of teach one of the plurality of data storage devices from the error rate, and means for executing the preventative maintenance." (Abstract)

The Examiner asserts on page 14 of the Final Office Action that "from this passage, it is disclosed that an error rate is arrived at for determining, among other things, a necessity to execute a preventive maintenance of each one of the plurality of data storage devices. This error rate is not expressed as a total number (which would not take into account a 'rate'), but a count of the total number of errors since a previous error rate or predetermined model. This can be more clearly seen as illustrated in figures 6(a) – 6(c)

and the corresponding passages in columns 5 and 6. Therefore, if an error rate is determined, there must be a base from which to measure subsequent counts, therefore, a base count level is set."

The Applicant submits that Sasamoto teaches at col. 5 lines 63-67 "In each of FIGS. 6(a), 6(b), and 6(c), the vertical axis shows <u>the total number of errors and the horizontal axis shows the total access size</u>. In FIG. 6(a), <u>a total number of errors is marked with a dot against a total access size</u> **when an error is detected**."

The Applicant submits that Sasamoto is unclear about how or if the error count may be set to any base level. From the foregoing, Applicant believes that since Sasamoto uses the error rate inclination and an error rate, the error count, which is used in calculating the error rate and error rate inclination, may set to zero after each error is detected, or it may not be set to any value. The Applicant further submits that generally, a rate may be calculated from any two count readings for a specified interval, as long as the previous reading is known. Thus, it is conceivable to the Applicant that a continuous error counter, which need not be set, could be used.

Furthermore, even if, *arguendo*, Sasamoto inherently teaches setting a base count level as the Examiner has suggested, Applicant respectfully submits that Sasamoto does not teach or suggest "**resetting the count to a base level <u>in response to returning the storage device to an operational state</u>**," as recited in Applicant's claim 1.

Matthews does not teach or suggest "**resetting the count to a base level <u>in response to returning the storage device to an operational state</u>**," as recited in Applicant's claim 1.

Accordingly claim 1, along with its dependent claims, is believed to patentably distinguish over Sasamoto and over Sasamoto in view of Mathews.

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Claims 15 and 31 recite features that are similar to the features recited in claim 1. Thus, claims 15 and 31, along with their respective dependent claims, are likewise believed to patentably distinguish over Sasamoto and over Sasamoto in view of Mathews for at least the reasons given above.

CONCLUSION

In light of the foregoing remarks, Applicant respectfully submits the application is now in condition for allowance, and an early notice to that effect is requested.

No fees are believed necessary; however, the Commissioner is authorized to charge any fees which may be required, or credit any overpayment, to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 50-1505\5681-81600\BNK.

Respectfully submitted,

Stephen J. Curran
Reg. No. 50,664
AGENT FOR APPLICANT(S)

Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C.
P.O. Box 398
Austin, Texas 78767-0398
Phone: (512) 853-8800
Date:___October 25, 2004_____

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